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and Other Cruel, Inhuman
or Degrading Treatment
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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Third periodic reports of States parties due in 1996

Addendum

Denmark*

[2 July 1996]

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* For the initial report of Denmark, see CAT/C/5/Add.4; for its consideration, see CAT/C/SR.12 and 13 and Official Records of the General Assembly, forty-fourth session, Supplement No. 46 (A/44/46), paras. 94-122. For the second periodic report, see CAT/C/17/Add.13; for its consideration, see CAT/C/SR.229 and Add.2 and Official Records of the General Assembly, fifty-first session, Supplement No. 44 (A/51/44), paras. 33-41.

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* This annex is available for consultation in the archives of the United Nations Centre for Human Rights.

I. INTRODUCTION

1. This report is submitted in pursuance of article 19 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force with respect to Denmark on 26 June 1987. The report is organized in conformity with the general guidelines regarding the form and contents of reports to be submitted by States parties under article 19 (1) of the Convention (CAT/C/14). Please note the general description of Danish society in the core document (HRI/CORE/1/Add.58) and the comments from the International Rehabilitation and Research Centre for Torture Victims which are attached as annex 1 to this report.

2. The Danish system concerning incorporation and application of international human rights instruments under national law is described in the Danish core document in paragraphs 103 and 104. Also to be found there is the description of the special reason for incorporation of the European Convention on Human Rights - which addresses the citizens directly - into Danish law as an ordinary statute.

3. Denmark adapts its legislation to be in accordance with its obligations under international law following from, for example, the Convention against Torture. This means that obligations under international law are not assumed without at the same time examining the relationship of these obligations to applicable Danish law. If required, the Danish Parliament (the Folketing) has to decide whether to assume an obligation requiring changes in national law. In this connection less precise convention provisions are transformed into more precise national provisions suitable for enforcement and - owing to their precision - sanctionable with punishment.

4. International rules of law also become of importance to Danish law through the so-called rules of interpretation and presumption. Pursuant to the rule of interpretation Danish rules of law must be interpreted to the extent possible in such a manner that they accord with international law obligations. The rule of presumption implies that the law-applying authorities and the courts must base their decisions on the presumption that Parliament would not act contrary to Denmark's obligations under international law. Therefore, Danish national law is in accordance with Denmark's international obligations, including the Convention against Torture, and the fact that the Convention against Torture is not incorporated into Danish law thus does not mean that the provisions of the Convention are not honoured in Denmark. Against this background, Denmark has no current plans for an incorporation of the Convention against Torture.

5. In April 1994, following negotiation with the Home Rule Government of Greenland, the Ministry of Justice appointed the Commission on Greenland's Judicial System, whose task is to carry out a fundamental revision of the judicial system in Greenland (the police, the courts and the prison service) and to draft a revised version of the special Criminal Code and the special Administration of Justice Act applying in Greenland. The Commission - consisting of representatives from both the Greenland authorities and the Danish authorities and chaired by a supreme court judge - is expected to conclude its work in three to four years from its appointment.

6. The issue of establishing a closed prison in Greenland for inmates today serving in Herstedvester Prison in Denmark is included in the considerations of the Commission on Greenland's Judicial System. The Commission has not yet concluded its deliberations on this issue, among other things because the location of the group of persons in question has to be considered in conjunction with the design of the whole system of prisons in Greenland and in conjunction with the development of the psychiatric treatment system in Greenland. However, as a preliminary measure the Commission on Greenland's Judicial System has proposed to the Ministry of Justice the implementation of certain improvements of conditions for Greenlander inmates in Herstedvester Prison, until transfers to Denmark can cease.

7. The Commission has proposed a change to the Criminal Code to create the authority for a scheme whereby an administrative decision can be made to station inmates of Herstedvester Prison in a prison in Greenland. If it proves to be necessary to return the inmate to Herstedvester Prison, such decision should also be made administratively, according to the proposal. Today, transfer from Herstedvester Prison to a prison in Greenland can only be decided by court order. The aim of the stationing scheme is to create - through the possibility of returning the prisoner to Herstedvester Prison in a rapid and simple manner - the possibility of transferring the person in question to a prison in Greenland at an earlier time than otherwise possible. A law on the stationing scheme enters into force on 1 July 1996.

8. In addition to the stationing scheme, the Commission has suggested a number of improvements to the inmates' conditions, which have been implemented administratively by the Directorate of Prisons and Probation (Direktoratet for Kriminalforsorgen). Consequently, a scheme has been established according to which, by agreement, the inmates have food from Greenland served twice a week. Workshops and similar arrangements for Greenlander inmates have been resumed. In March 1996, Herstedvester Prison appointed a new Greenlander teacher to resume tuition in the Greenlandic language and social studies, and attempts are also being made to implement an arrangement with a Greenlander artist or the like who could act as some sort of leisure teacher.

9. Furthermore, the possibilities of free visits to Greenland, i.e. trips to Greenland paid for by the public, have been expanded so that the inmates have an annual free visit, if possible. In that connection, attempts have been made to strengthen contacts with the inmates' families by means of extended access to telephoning, each inmate now having access to a weekly telephone conversation to Greenland of 10 minutes' duration paid for by the public.

10. In addition, it has now been made possible for the inmates to be personally present at the circuit court trial in Greenland deciding whether the sanction (sentence) of the inmate is to be changed from imprisonment at Herstedvester Prison to imprisonment at a prison in Greenland. With a view to counteracting language problems, information leaflets concerning conditions of serving, etc. at Herstedvester Prison will henceforth be prepared in Greenlandic. Finally, an experimental scheme will be initiated at Herstedvester Prison to translate into Greenlandic important documents and letters from public authorities.

II. INFORMATION RELATING TO EACH ARTICLE OF PART I OF THE CONVENTION

Article 1

11. Please refer to the comments on article 4.

Article 2

12. During the examination of Denmark's second periodic report, the Danish rules were discussed in association with article 2 (3), according to which an order from a superior or a public authority cannot be relied on to justify torture. Reference is made to paragraph 12 in the minutes of the examination concerning that report (CAT/C/SR.229).

13. In this connection, it can be mentioned that the rules in section 23 of the Danish Criminal Code (Straffeloven) on assistance do not generally relieve a subordinate of liability, if the subordinate acted on orders from or in collusion with his or her superior. The rules prescribe that a subordinate who participates in the carrying out of torture at the order of a superior normally incurs the same liability as his/her superior.

Article 3

14. Pursuant to the Aliens Act, residence permits for Denmark are granted to aliens falling within the 1951 Convention relating to the Status of Refugees. Pursuant to this Act, residence permits are granted, inter alia, in cases where there is a risk of torture, and where this persecution can be considered covered by the Refugee Convention (Convention status).

15. Pursuant to the Aliens Act, residence permits are also granted to aliens in cases where, for reasons similar to those stated in the Refugee Convention or for other overriding reasons, the alien should not be required to return to his or her country of origin. If there is a risk of torture, practice prescribes that the applicant will be granted a residence permit pursuant to the Aliens Act in cases where this persecution cannot be deemed to be covered by the Refugee Convention (de facto status).

16. Four summaries of concrete cases are attached as annex 2 to illustrate the practice of the Danish Refugee Board (Flygtningenævnet).

17. The Danish Immigration Service (Udlændingestyrelsen), which decides asylum applications in the first instance, has stated that as part of the general health-care system, it is a standing practice to have asylum applicants accommodated in Danish asylum centres undergo a medical examination. In cases where there is reason to suspect that the asylum applicant may have been subjected to torture, the Immigration Service will initiate a more detailed medical examination in connection with the processing of the asylum application.

18. At the beginning of 1995, the Immigration Service agreed with the forensic institutes in Copenhagen, Aarhus and Odense that examinations for torture could be made at these institutes. It is estimated that 10-15 examinations have been made pursuant to this agreement since initiation of the scheme.

19. The Refugee Board, which makes the final decisions in asylum cases in the second instance, has stated that medical reports concerning the state of health of asylum applicants, normally prepared by the medical group of Amnesty International, are in practice given considerable weight at the Refugee Board's assessment of whether the applicant in question has been exposed to torture.

20. It follows from section 19 (5) and section 26 of the Aliens Act that in deciding on expulsion or revocation of a residence permit, due consideration must be paid to the question of whether the expulsion must be assumed to be particularly burdensome, in particular because of the alien's state of health (sect. 26 (1)) and the risk that the alien will be ill-treated in his country of origin or any other country in which the alien may be expected to take up residence.

21. If the Immigration Service or the Refugee Board refuses to grant a residence permit to an alien pursuant to sections 7-8 (asylum) of the Aliens Act, and where it can thus not be presumed that there is a risk of torture (see para. 26 (5)), the refusal must also, pursuant to section 32 a of the Aliens Act, which was incorporated by Act No. 482 of 24 June 1992, contain a decision on the question of whether section 31 of the Aliens Act would be a bar to expulsion of the alien if he or she does not voluntarily leave the country.

22. Pursuant to section 31 (1) of the Aliens Act, an alien shall not be expelled to a country where he or she risks persecution for the reasons mentioned in article 1 A of the Refugee Convention, or where the alien is not protected against re-transfer to such a country.

23. Pursuant to section 31 (2) of the Aliens Act, the prohibition against expulsion contained in subsection (1) also applies if the alien has obtained a residence permit pursuant to section 7 (2) or (4) (see subsect. (2)) (de facto status). The prohibition, however, does not apply if definite grounds are found for assuming that the alien presents a risk to Denmark's national security or if, after final conviction for a particularly dangerous offence, the alien must be assumed to present an immediate danger to the life, limb, health or liberty of other persons. It should be noted that this exception from the prohibition against refoulement has wording corresponding to that of article 33 of the Refugee Convention.

24. The prohibition against refoulement pursuant to section 31 of the Aliens Act applies to the expulsion of all aliens and not only of persons having a residence permit pursuant to sections 7-8 (asylum) of the Aliens Act. If an alien to whom asylum has been refused, or who for other reasons is not entitled to stay in the country, invokes section 31 in connection with the expulsion, the police can refer the case to the Immigration Service or the Refugee Board with a request for resumption of the asylum case or an application for asylum.

25. Thus, in general, section 31 of the Aliens Act is only applied in cases where the Immigration Service or the Refugee Board has made a final decision establishing that the alien does not fulfil the conditions for being granted a residence permit pursuant to section 7 (see, however, paras. 38-44). This means that section 31 of the Aliens Act is generally only applied in cases where it can be presumed that there is no risk of torture on return (see paras. 25-27).

26. By Act No. 421 of 1 June 1994 and Act No. 33 of 18 January 1995, a provision was included in section 33 (7) of the Aliens Act, whereby an application for resumption of a decision pursuant to section 7 only has a delaying effect concerning the time-limit for departure if the authority having made the decision in the case for which resumption is desired so decides. If the alien's time-limit for departure has been exceeded, the application for resumption of the case does not result in the grant of a delay.

27. If, after expiry of the time-limit for departure, new relevant information is put forward in the concrete case or if, owing to events which occurred in the country of origin, a new situation has arisen generally, or at least a decisive change of the situation in relation to the country to which the alien will be sent, the immigration authorities can still decide to resume the concrete cases and permit the alien or aliens in question to remain in the country during processing of their cases. The National Police, which is in charge of expelling aliens, can put the expulsion measures in abeyance for a large or small group of cases on the basis of a request from the immigration authorities. The National Police and the immigration authorities have initiated negotiations to improve the procedures ensuring that an expulsion is stopped immediately in such situations.

28. If an alien holding a residence permit is subsequently expelled by judgement owing to a criminal offence, the residence permit will lapse (see sect. 32). This also applies if the expelled alien has a residence permit granted pursuant to section 7 of the Aliens Act (asylum). The prohibition against refoulement also applies to aliens expelled by judgement.

29. It should be noted that in a concrete case, the Refugee Board found it highly questionable to consider an alien who was a victim of torture to be covered by the second clause of subsection (2) of section 31 of the Aliens Act, regardless of the seriousness of the offence committed in Denmark. A summary of the case in question is included in annex 2.

Article 4

30. By way of introduction, please refer to paragraph 9 of Denmark's second periodic report (CAT/C/17/Add.13) (see paras. 14-18 of Denmark's initial report (CAT/C/5/Add.4)).

31. In its conclusions following the examination of Denmark's second periodic report the Committee against Torture recommended, among other things, that a provision should be inserted in the Danish Criminal Code defining the concept of "torture", (see art. 1 of the Convention). This question is also

mentioned in paragraph 10 (see para. 5) of the minutes of the examination of Denmark's second periodic report (CAT/C/SR.229). The question of an amendment of the Criminal Code was the subject of very thorough discussions prior to Denmark's ratification of the Convention against Torture.

32. In the Danish Government's opinion, the Criminal Code must be presumed to provide the requisite authority in case of torture, including mental torture, for imposing a suitably severe penalty. Please refer to the provisions in part 16 of the Criminal Code on offences in the execution of public duties, sections 244-246 on violence, section 250 on rendering, etc. a person helpless, section 252 on exposure to danger, section 260 on duress, section 261 on deprivation of liberty, and section 266 on threats to a person's life, all in conjunction with section 21 of the Criminal Code on attempts and section 23 on assistance.

33. The question of amending sections 244-246 of the Criminal Code aiming at mental torture has also been considered in the Standing Committee on the Criminal Code (Straffelovsrådet). Pursuant to section 244 of the Criminal Code, any person who commits violence to or otherwise attacks another person's body is punishable with a fine, simple detention or prison for a period not exceeding one year and six months. Pursuant to section 245, any person who commits a bodily attack of a particularly savage, brutal or dangerous nature, or who renders himself guilty of battering, is punishable with prison for a period not exceeding four years. This also applies to any person who inflicts an injury to another person's body or health. Where a bodily attack covered by section 245 of the Criminal Code is of such an aggravated nature or has had such serious consequences that the circumstances are extremely aggravating, the penalty may be increased to prison for eight years.

34. It is the opinion of the Standing Committee on the Criminal Code that as a point of departure, section 244 of the Criminal Code can be invoked in case of mental torture. The Committee bases its opinion on the presumption that the offence would normally be an infringement of the physical integrity covered by the expression "otherwise attacks another person's body". Where this is not the case, the Committee presumes that the other provisions mentioned above provide sufficient authority for punishment. In this connection, the Committee stresses that section 245 on intentional commission of bodily injury or injury to a person's health also includes the intentional infliction of injury to the mental state of health of the person attacked.

35. As mentioned in paragraph 10 in the minutes of the examination of the second periodic report, the Danish Criminal Code has a wider and more accurate field of application than the penal provisions of the Convention. This implies that in the circumstances, a person may be prosecuted for violation of the provisions on violence of the Criminal Code in cases where the evidence does not prove with certainty whether torture has been used within the meaning of the Convention, for example because it is impossible to prove by evidence that the violence was committed with the purpose of procuring information or a confession from the person in question or from a third person (see art. 1 (1)).

36. In conclusion, it should be noted that it is a subject of continuous consideration whether the provisions of the Criminal Code cover the types of action comprised by the definition of torture in the Convention. Should a need arise later for amendments, the question will, of course, be reconsidered.

Articles 5-7

37. There have been no changes in legislation or practice in relation to these provisions.

Article 8

38. By way of introduction, please refer to paragraph 17 of Denmark's second periodic report (CAT/C/17/Add.13).

39. In this connection, it can be stated that pursuant to section 5 of Act No. 1099 of 21 December 1994 on prosecution before the International Criminal Tribunal for the Former Yugoslavia, Order No. 832 of 30 October 1995 has been issued on prosecution before the International Tribunal for Rwanda. The Order became effective on 1 December 1995 and involves, among other things, the possibility of extraditing persons on request with a view to prosecution before the International Tribunal for Rwanda.

Article 9

40. By way of introduction, please refer to paragraph 27 of Denmark's initial report (CAT/C/5/Add.4).

41. By section 4 of Act No. 291 of 24 April 1996 on amendment of the Act on extradition of offenders, the Act on international enforcement of sentences, etc. the Act on cooperation with Finland, Iceland, Norway and Sweden concerning enforcement of sentences, etc. and the Danish Administration of Justice Act (Retsplejeloven), a provision has been inserted in section 191 of the Administration of Justice Act concerning transfer of witnesses held in custody abroad. The new provision implies that custody can be effected in Denmark of a person held in custody abroad and transferred temporarily to Denmark to give evidence as a witness in pending criminal proceedings.

Article 10

42. Tuition in "Human rights" has been introduced as an independent subject in the new basic training of the police, which started on 1 November 1995. Among other things, the tuition will touch on the prohibition against torture and raise awareness concerning human rights in daily police work. In addition, the new basic training has introduced a subject called "Cultural sociology", including, for example, the relationship of the police with ethnic minorities.

43. As part of the efforts to ensure that the composition of the police corps reflects that of the population, a local evening school society has cooperated with the National Commissioner of Police to establish a preparatory course aimed at members of ethnic minorities who are considering applying for entry to the Danish Police Academy but who do not possess the requisite knowledge of Danish. Furthermore, the National Commissioner of Police

participates with the Ministry of Justice in a police cooperation group under the Board for Ethnic Equality (Nævnet for Etnisk Ligestilling), which is preparing brochures on employment with the police aimed at applicants from ethnic minorities. Publication of the brochure is expected in the summer of 1996. Finally, the Danish Police Academy has just concluded a thematic week for its students concerning ethnic minorities.

44. Referring to paragraphs 23 and 40-45 of Denmark's second periodic report (CAT/C/17/Add.13), as mentioned, a medical review and assessment of the self-defence holds and techniques were initiated with a view to clarifying the risks they involve. The medical review and assessment have now been performed by physicians appointed by the Danish Board of Health (Sundhedsstyrelsen), and on this basis the National Commissioner of Police has drafted a report.

45. In the few cases where physicians' reports had mentioned factors to be considered in using certain holds and techniques, including holds where special care should be taken, such factors have been incorporated into and are emphasized in the Police Academy training since the findings of the medical review became available. The National Commissioner of Police will furthermore inform the police districts of the findings of the medical review. The Ministry of Justice has recently submitted the medical review to the Danish Board of Health, requesting its opinion.

46. Referring to paragraph 13 of the minutes of the examination concerning the second periodic report (CAT/C/SR.229), the Ministry of Justice will issue a circular letter to police and prosecution "on informing relatives or others concerning an arrest, on the detainee's access to a lawyer, and on the detainee's access to medical assistance". After having sought the opinion of a number of organizations and authorities the Ministry of Justice expects to circulate an amended circular letter for comment with a view to being able to issue the guidelines later this summer.

47. Asylum applications in the first instance are considered by the Danish Immigration Service on the basis of information provided through interviews with the applicant, etc. Until 1 January 1996, the Danish police handled these interviews if the asylum application was processed through the normal procedure, viz. with access to an appeal to the Refugee Board. In future, the interviews will be handled by academic staff (legal officers) of the Immigration Service. The legal officers who will perform these interviews participate in a course, including a five-day residential course, providing training in interviewing and conversational techniques as well as communication and integration, etc.

48. The interviews of the Immigration Service always take place with the assistance of an interpreter. If the applicant is a minor, he or she is assisted during the interview by an employee of the Danish Red Cross.

49. The police, however, are still in charge of interviews in connection with registration of the asylum application. Furthermore, the police carry out interviews in connection with the decision by the Immigration Service pursuant to section 48 (2) of the Aliens Act concerning a possible rejection or expulsion to a safe third country. Finally, the police interview aliens who are detained in custody.

50. The employees of the National Commissioner of Police, Department E, who are in charge of the above tasks receive supplementary training consisting of internal and external courses concerning the work with aliens, in addition to their basic police training. All police officers go through a one-week residential course on "Police work with and among aliens", aiming to give participants increased knowledge of and understanding for the role of the police in a multicultural society.

51. In general, all police officers acquire a thorough knowledge of the Criminal Code as part of their basic training.

52. When the Refugee Board considers appeals of refusals of asylum made by the Immigration Service, the applicant has an opportunity, as a point of departure, to submit his/her points of view at a meeting with the members of the Board, (see sect. 56 of the Aliens Act for further details). The Refugee Board generally appoints a counsel to every asylum applicant residing in the country during the processing of the asylum case (spontaneous asylum-seekers), (see sect. 55 (1) of the Aliens Act).

53. The members of the Refugee Board and the employees in the Board secretariat have participated in a seminar where representatives from the Rehabilitation and Research Centre for Torture Victims informed them of the contents of the Convention against Torture, and of the special circumstances that may apply in connection with the processing and assessment of asylum cases concerning applicants who have been exposed to torture or actions similar to torture.

54. The Department of Prisons and Probation has laid down general guidelines for the treatment of inmates on hunger strike. These guidelines are strictly based on international declarations and recommendations such as the Declaration of Tokyo and are sent to every prison as an instruction to the personnel about how to act in case an inmate starts a hunger strike.

55. The Department of Prisons and Probation regularly arranges courses for prison doctors where issues of mutual interest, including problems of medical ethics, may be discussed. In 1994, the Danish Medical Association (Den Almindelige Danske Lægeforening) arranged a course on medical ethics in close cooperation with the Department of Prisons and Probation. This course was aimed at prison doctors, forensic psychiatrists and other "doctors at risk", who might be confronted with difficult problems of an ethical nature in their daily work within the judicial services. The course concentrated on various aspects of the prison medical service. The Department of Prisons and Probation is in regular contact with the Danish Medical Association.

56. Please refer to paragraphs 113-114 and 121-124 below concerning training in the Prisons and Probation Service.

Article 11

57. A special statute on enforcement of sentences, etc. is at present being prepared in the Standing Committee on the Criminal Code. The aim of the statute is, in particular, to regulate the legal position of persons sentenced to prison during the time when they serve their sentence. The statute therefore includes provisions on the prisoners' assignment to and transfer between penitentiary institutions. Also, the rights and duties of the

prisoners, such as work and training, leave, visits and disciplinary punishments, etc. are covered by the draft bill of the Committee. In addition, the issue of a special appeal procedure, including increased access to bringing certain decisions before the courts, is included in the deliberations of the Committee.

58. During the examination of Denmark's second periodic report, the issue of remand in custody in solitary confinement was touched upon. Please refer to paragraph 18 in the minutes of the examination concerning that report (CAT/C/SR.229). The conditions for the use of remand in custody in solitary confinement in Denmark are found in section 770 a of the Danish Administration of Justice Act. Pursuant to this provision, a person can only be detained in solitary confinement if the suspect is remanded in custody and the remand in custody is decided pursuant to section 762 (1) (3) of the Administration of Justice Act. This implies that in the circumstances of the case there must be specific reasons to presume that the suspect will render difficult the prosecution of the case, particularly by removing clues or by warning or influencing others. It is furthermore a condition for detention in solitary confinement that the purpose of the remand in custody renders this necessary, for example to prevent the suspect from influencing co-suspects through other inmates, or from influencing others through threats or in any other similar manner.

59. It follows from the request for remand in custody that there must be a confirmed suspicion that the suspect has committed an offence punishable with imprisonment for one year and six months or more. Furthermore, a concrete assessment must show that the offence is likely to result in imprisonment. In addition, a special proportionality principle applies, according to which detention in solitary confinement must not be implemented or continued if the purpose thereof can be achieved with less infringing measures, or if the measure is disproportionate to the importance of the case and the legal consequence to be expected if the suspect is found guilty. The decision to detain in solitary confinement must also take into consideration the special stress on the suspect in which the measure may result owing to the suspect's youth or physical or mental weakness.

60. Detention in solitary confinement is decided by the court and cannot be prolonged by more than four weeks at a time. Furthermore, detention in solitary confinement is only allowed for a period of eight consequent weeks. However, this rule does not apply if the charge concerns an offence for which the Criminal Code prescribes imprisonment for six years or more. For these very serious offences there is no absolute restriction in time, but the principle of proportionality may imply that detention in solitary confinement cannot be further extended.

61. The number of remands in custody in solitary confinement dropped in 1995 compared with 1994. In 1995, a total of 1,142 persons were remanded in solitary confinement. The corresponding figures for 1990-1994 were 1,139, 1,143, 1,144, 1,251 and 1,295, respectively. In 1995, 552 persons were held in solitary confinement for 1 to 7 days, 234 persons for 14 to 28 days, 199 persons for 28 days to 2 months, 123 persons for 2 to 4 months, 22 persons for 4 to 6 months and 27 persons for more than 6 months.

62. In 1990, a research project was initiated aiming to determine a scientific basis for assessing any mentally harmful effects of remands in custody in solitary confinement. As a result of this research project, a first report was published in May 1994: "The isolation study - remand in custody and mental health". According to the report, the study showed that the mental health of non-solitary persons improved during the period of the remand in custody while the mental health of those in solitary confinement remained the same. The degree of stress was reduced on the transition from solitary to non-solitary confinement. The persons in solitary confinement were more inclined to develop mental disorders, and there was a greater probability that they would be transferred to a prison hospital for mental reasons than the remand prisoners in non-solitary confinement. Within the time-limits of the study, the state of mental health of the isolated persons was independent of the duration of the solitary confinement.

63. It appears from the study that the stress of solitary confinement is generally not of a nature as to result in disturbances of cognitive functions, such as the ability to concentrate, memory, etc. The conclusion of the study was that remand in custody in solitary confinement compared with non-solitary confinement involved stress and a risk of disturbing mental health.

64. A further report completing the research project will be published shortly. This final report is to illustrate any long-term injuries or injuries arising at a late stage, among other things.

65. When the final report is available, the full scientific study will be submitted to the Standing Committee on Administration of Criminal Justice (Strafferetsplejeudvalget). The study will then be incorporated in the Committee's overall consideration of whether the rules applying at present in the field should be amended.

66. According to the Criminal Code, the Order on Enforcement and the circular of the Ministry of Justice dated 10 March 1976 on the application and enforcement of disciplinary punishments and on the conduct of disciplinary cases, inmates in certain cases can be sentenced to disciplinary punishment in the form of confinement in a so-called special cell. Confinement in a special cell means that the inmate is isolated from other inmates. Confinement in a special cell can be imposed for refusal to work, violation of the Criminal Code or security and house order rules, attempts to evade enforcement of the punishment, refusal to comply with personnel directions, possession/smuggling in of illegal effects and contravention of the rules on the exchange of letters and visits as well as leave. Confinement in a special cell can be made conditional. Where (attempt at) escape, failure to appear following leave, or in general a serious disciplinary offence is involved, it is possible to impose confinement in a special cell for up to four weeks. In other cases, such confinement can only be imposed for one week. If other measures are taken on the occasion of the disciplinary offence, such as transfer from an open to a closed prison, a disciplinary punishment may only be used to the extent decisive considerations to the maintenance of order and security in the institution so require.

67. Disciplinary cases must always be dealt with as rapidly as possible. Where confinement in a special cell may be imposed, the inmate must be informed of the information available in the case, be given an opportunity to make a statement, and the decision must be made in the presence of the inmate.

68. Inmates confined in a special cell are not subject to restrictions other than those following from exclusion from the community. Special-cell inmates - like other inmates - have a right to one hour daily in the open air.

69. In the period from 1987 until 1991, there was a steady drop in the number of decisions to confine inmates in a special cell. Thus, in 1987, unconditional confinement in a special cell was imposed in 1,772 cases. In 1991, the number was 1,330. In 1992, the number was 1,742, i.e. very close to the figure for 1987. In 1993, 1994 and 1995, unconditional confinement in a special cell was imposed in 1,618, 1,641 and 1,836 cases, respectively. The imposition of unconditional confinement in a special cell owing to violation of the Criminal Code or contravention of rules concerning order and security has made up the major part of the cases in all years. Thus, the number of special-cell confinements owing to these offences each year constitutes somewhere between half and three quarters of all cases.

70. Pursuant to the circular of the Ministry of Justice dated 27 April 1994 on the use of the observation cell, security cell and restraint, etc. confinement in a security cell may occur when deemed necessary to prevent imminent violence, overcome violent resistance or prevent suicide or other self-mutilation. It is a condition that other more lenient measures - including transfer to solitary confinement or observation cell - have been tried or will obviously be inadequate. If deemed necessary to use restraint, a belt is allowed, along with any foot and hand straps and gloves. Inmates who are restrained during confinement in a security cell must have a permanent guard who does not at the same time have other duties. A doctor must be called immediately to ensure that a medical inspection of the restrained inmate can be carried out as rapidly as possible, unless the doctor finds it to be obviously unnecessary. If the inmate is not restrained, a doctor must be informed if the inmate himself so requests or if there is a concrete suspicion of illness.

71. Confinement in an observation cell can be effected if deemed required to prevent malicious damage, if decisive considerations for the maintenance of peace and security in the institution so demand, or a special need for observation is deemed to exist. Inmates confined in an observation cell must be regularly inspected by personnel.

72. Measures of confinement in observation and security cells as well as of restraint must not be extended for longer than deemed absolutely required.

73. During the inmate's stay in the observation cell or the security cell, the inmate may exercise his or her usual rights to the extent compatible with the stay in the particular cell.

74. In 1987 there were 415 confinements to a security cell. In the following years, the figure dropped to 223 in 1992. Since then, the figure has again risen, and 1995 saw a total of 352 confinements in a security cell. As from 1992, statistics have been gathered to illustrate the extent of the use of restraint. Since then, about half the security cell confinements were connected with restraint. More than half of all security cell confinements have a duration of less than six hours. In 1987, 1988 and 1989 there were 36, 36 and 21 confinements in security cells with a duration exceeding 24 hours. For the years 1990-1995 there were very few - between 5 and 20 - confinements in security cells with a duration exceeding 24 hours.

75. As from 1995, statistics have also been gathered on the number of observation cell confinements. Such confinements occurred in 875 cases in 1995. Of these, 379 had a duration of less than 6 hours, and most lasted less than 24 hours.

76. A working group appointed by the Ministry of Justice and the Department of Prisons and Probation analysed the use of security cells in the prisons and local jails of the Department in the years from 1989 until 1992. Following the recommendations of the working group, a number of security cells in the local jails have been closed and replaced by observation cells in later years so that only the most closed prisons and the largest local jails today have security cells. One of the purposes of the closures was to restrict the use of security cells as much as possible.

77. Pursuant to the circular of the Ministry of Justice dated 14 September 1979 on placing inmates in solitary confinement, forced solitary confinement may be carried out if necessary for reasons of order or security, to prevent punishable activity or for health reasons, for example to prevent infection. Finally, forced solitary confinement may occur owing to repeated or collective refusals of the duty to work. Solitary confinement must be considered weekly and cease when the basis for the confinement is no longer present.

78. During his/her solitary confinement, the inmate is not subject to restrictions other than those following from exclusion from the community. Inmates in solitary confinement have access to one hour daily in the open air.

79. In the years from 1987 until 1991, the number of forced solitary confinements dropped from 1,089 in 1987 to 940 in 1991. In 1992, the figure rose to 1,023, while in 1993, 1994 and 1995 it was 799, 755 and 777, respectively. For all the years, short-term solitary confinements (one to three days) constitute the largest group. For example, 349 of the 777 confinements that occurred in 1995 had a duration of one to three days.

80. In the case of long-term solitary confinements, the most frequent cause of the penalty was refusal to work. The short-term solitary confinements most frequently occurred because continued stay in the community was found unjustifiable, or to prevent violent behaviour or punishable activity. In certain years, however, many short-term solitary confinements also occurred owing to refusal to work, most often owing to strikes.

81. Against a background of some serious escapes with the use of weapons at the end of 1988, a few maximum security cells were established in 1989. These cells can accommodate inmates sentenced for dangerous crimes who have escaped during their imprisonment or have attempted to do so by means of methods dangerous to persons, and for whom a risk of escape must be presumed still to exist. Inmates confined in these cells are excluded from any form of communal contact with other inmates, unless the Department of Prisons and Probation has given specific permission for restricted contact with specified inmates. Also, exchange of letters, visits, searches, etc. are subject to a more strict control for these inmates. In order to compensate to some extent for this form of isolation, it was a prerequisite that the inmates in these maximum security cells should have frequent contact with personnel, and also the cells are larger and have better equipment. A decision to confine a prisoner in a maximum security cell is made by the Department of Prisons and Probation.

82. In recent years, nobody has been confined in a maximum security cell.

83. The decisions of the institutions on solitary confinement, confinement in an observation cell or security cell, and confinement in a special cell can be appealed to the Department of Prisons and Probation. Today there is no special access to appealing against these decisions to the courts. The general access granted by the Constitution to appeal against the decisions of the Administration to the courts is of no practical importance in this field. It is not rare, however, that these cases are brought before the Ombudsman of the Parliament. The Ombudsman cannot change a decision, but may state his opinion of the case and make a recommendation which in practice will be followed up by an amended decision or possibly amended general rules.

Articles 12 and 13

84. The rules on processing complaints against the police described in paragraphs 32-34 in Denmark's initial report (CAT/C/5/Add.4) have been replaced as of 1 January 1996 by a new scheme excluding the police from participating in the processing of complaints about the behaviour of police personnel. The rules on complaints about police personnel behaviour, criminal cases against police personnel and police complaints boards are now to be found in part 93 (b)-93 (d) of the Administration of Justice Act.

85. Complaints against police personnel are filed with, examined and decided by the District Public Prosecutor. The District Public Prosecutors also investigate criminal proceedings against police personnel and decide on the question of prosecution in such cases. Where a person has died or been seriously injured owing to police intervention or while the person in question was in police custody, the case must be investigated by the District Public Prosecutor within the framework of the administration of criminal justice.

86. Appeals against the decisions of the District Public Prosecutors can be made to the Director of Public Prosecutions. The District Public Prosecutors and the Director of Public Prosecutions are part of the prosecuting authority and are independent of the police. In addition, regional control boards (police complaints boards) have been appointed to provide continuous inspection of the District Public Prosecutors' processing of complaints against police personnel. Each of the regional police complaints boards numbers a lawyer and two laymen.

87. A total of 410 complaints against the police have been filed in the first quarter of 1996. In 225 cases, the complaint relates only to the behaviour of the police, and in 185 cases the complainant believes that an offence may have been committed.

88. Furthermore, Act No. 282 of 29 April 1992 on amendment of the Criminal Code inserted a special provision concerning the protection of witnesses as section 123 in the Criminal Code. The provision implies that any person who by threats of violence molests, or who by violence, duress pursuant to section 260, threats pursuant to section 266 or in any other manner commits an offence against a person or his nearest relatives on the occasion of that person's anticipated statement or statement already made to the police or in court shall be punished with simple detention or imprisonment for a period not

exceeding six years, as a starting point. The purpose of this provision is to grant qualified protection to witnesses and others who have to make a statement in criminal proceedings. The provision at the same time aims at protecting co-perpetrators who give evidence on others' share in the offence.

89. In March 1995, a working group under the Ministry of Justice prepared an action plan against organized crime and rocker crime. The action plan contains proposals for better protection of witnesses, including establishment of a witness protection programme proper, with a new name, help for removal and establishment of new accommodation, as well as practical protection against violence, threats and spite. In addition, the action plan contains a proposal on extended criminalization of threats, etc. against witnesses pursuant to section 123 of the Criminal Code so that threats made to persons other than the nearest relatives of the witness (such as the employer) also become punishable. The proposals of the action plan are at present being considered by the Ministry of Justice.

90. Reference is made to paragraph 20 of the minutes of the examination concerning the second periodic report (CAT/C/SR.229).

91. The events at Nørrebro (a residential area of central Copenhagen) on 18 and 19 May 1993 led to the conviction of several activists before all three court instances, and the decisions of the Supreme Court involved a considerable heightening of the level of punishment for violence against police officers committed by persons having participated in the violent and dangerous attacks. Three police officers were also prosecuted on the occasion of the riots.

92. In its capacity as the supreme prosecuting authority - after the Ombudsman of the Parliament had expressed the view that the Director of Public Prosecutions had to be deemed disqualified - the Ministry of Justice decided on 7 December 1995 that the prosecution of the three police officers should be dropped as further prosecution could not be expected to lead to a conviction of the persons in question (see sect. 721 (1) (2) of the Administration of Justice Act).

93. One police officer has been prosecuted for violence, having during the riots hit an arrested person who was being pulled away lying on his back in the head or on the torso with a police truncheon. The police officer was convicted in the district court, but acquitted before the High Court.

94. Former Director of Public Prosecutions and present Supreme Court judge, Asbjørn Jensen, has concluded his study of the events at Nørrebro. Subsequently, on the basis of a complaint from private citizens, the Ombudsman of the Parliament has made a study of Asbjørn Jensen's study. Against the background of the criticism made by the Ombudsman of the Parliament in his statement against Asbjørn Jensen's study, the Parliament by Act No. 389 of 22 May 1996 decided on a new inquiry of the so-called Nørrebro case. Pursuant to the Act, a commission of inquiry of three persons is to be appointed. The commission members must be independent and impartial in relation to the authorities and the persons whose circumstances are to be studied.

95. The commission in particular has to study and clarify the complete course of events in connection with the riots at Nørrebro on 18 and 19 May 1993. The commission also has to study and clarify a number of circumstances in connection with the establishment and implementation of the former study in the matter. On this basis, the commission is to state in a report to the Minister of Justice whether errors or omissions were committed by persons in public duty which may give rise to an attempt to assign a legal liability. The report on this issue is not, however, to comprise the rank and file police officers at Nørrebro. The Minister of Justice will publish the report.

96. Otherwise, in 1995, four criminal cases have been initiated against police officers for violence. One case has been finally decided before the second instance court and the police officer has been sentenced to 30 days in prison. This person has now been put down for dismissal. Three cases have not yet been finally decided by the court. In one case where two officers are accused, the district court has acquitted one officer, while the other was found guilty of violating the provision on violence (sect. 244) of the Criminal Code and was sentenced to 30 days in prison. The prosecution has appealed both these decisions, requesting conviction for the officer who was acquitted and a more severe punishment for the other officer.

97. In addition, four cases concerning violence committed in the course of duty were closed because of the state of the evidence, and four cases concerning violence committed in the course of duty were closed as being groundless.

98. One of the cases (the Parnas case), which was closed because of the state of the evidence, concerned an arrest made by five plainclothes officers. The officers in question were first charged, but then the District Public Prosecutor for Copenhagen decided to drop the charge on the ground that further prosecution could not be expected to lead to a conviction of the suspects. This decision was confirmed by the Director of Public Prosecutions.

99. The police complaints board then considered the case, and, following a review of the case, found that regrets should be expressed concerning the behaviour of the police officers in connection with the arrest. By letter of 30 April 1996 the District Public Prosecutor for Copenhagen has informed the complainants that he has decided to stop the examination of the case and at the same time informed the complainants that the police complaints board did not agree with this decision.

100. No report has been received as yet of any prosecution being initiated against police officers in 1996 for violence or the like.

101. The Copenhagen district court inquiry concerning arrests made by the police at Christiania in 1993 was concluded on 30 August 1995, and the District Public Prosecutor for Sjælland on 3 November 1995 reported on the results of the inquiry. The inquiry covered 11 complaints, of which 8 were mentioned by Amnesty International in the report "Denmark, Police Ill-Treatment".

102. All complainants and police officers were assisted by lawyers during the inquiry.

103. The inquiry established that all 11 arrests must be deemed justified. However, the District Public Prosecutor has found reason to criticize the fact that the handcuffs used were too tight in some cases, and that in one case the detainee had not been protected against rain. Furthermore, the report contains comments concerning the use of "fixed leg locks", the use of which the Danish authorities had decided to abolish in 1994 as mentioned in paragraphs 43-44 of Denmark's second periodic report (CAT/C/17/Add.13).

104. The District Public Prosecutor concludes in his report that the many statements in court and the video clips shown do not provide a basis for establishing that the use of force by the police in 1993 at Christiania represented a clear and alarming pattern, as claimed by Amnesty International in its report. On the contrary, the District Public Prosecutor found that the information which came to light in connection with the inquiry left the general impression that many of the inhabitants (in Christiania) did not tolerate the presence of the police, and that the mere presence of the police often for that reason resulted in confrontations.

105. On the basis of the report, the Commissioner of the Copenhagen Police has enjoined that the rules on the use of handcuffs be followed, including the requirement that the handcuffs should be checked to ensure that they are not tightened unnecessarily after being put on. By approaching the Director of Public Prosecutions, the Commissioner has also taken steps to investigate the possibility of replacing the types of handcuffs currently used so as to avoid these drawbacks. In this respect the Director of Public Prosecutions has approached the police in a number of countries and requested them to state the type of handcuffs used by the police in that country, and the rules that may be prescribed in the field. This inquiry is not yet finished.

106. On 18 September 1990, the Ministry of Justice initiated an inquiry into the treatment of refugees in Copenhagen prisons. The mandate for the court inquiry was extended in February 1991 to also comprise an inquiry into the circumstances in connection with the arrest and the treatment by the Administration of two foreign nationals - a Tanzanian and a Gambian citizen - in the autumn of 1990.

107. In February 1992, the court of inquiry published a preliminary report concerning the two concrete cases. In the report, the court of inquiry expressed criticism of a number of factors, both concerning the case handling by the police and the treatment by the Prisons and Probation Service of the two foreigners. However, the court of inquiry found that the conditions for imposing criminal liability or in general to speak about torture or other cruel, inhuman or degrading treatment were not present.

108. Concerning the use of means of force and security, the court of inquiry found that the guidelines therefor could have been elaborated through further training or by systematic follow-up on the concrete uses of means of force and security. However, the court of inquiry stated in that connection that the issue was already being considered within the framework of the Prisons and Probation Service (see below).

109. The preliminary report actually caused the Copenhagen Prisons to impress the rules on the use of force on the personnel, at the request of the Department of Prisons and Probate.

110. On 5 February 1993, the court of inquiry submitted its final report on the treatment of refugees in Copenhagen prisons. One of the conclusions of the court of inquiry was that the management of Copenhagen prisons had succeeded in staffing the wards and institutions in question with prison officers who were able to cope with the rather stressing work with foreigners.

111. The reports of the court of inquiry were subjected to very thorough consideration by the authorities involved. Thus, the reports have given rise to a number of initiatives within both the police and the Prisons and Probation Service, where the conclusions of the court of inquiry concerning individual employees have also been followed up.

112. To improve conditions, the Prisons and Probation Service in the prisons of Copenhagen have implemented changes to the buildings, etc. as well as improved the reception procedure. This procedure aims at improving the reception of the inmates and avoiding situations of conflict. In this connection, information material has been prepared for aliens detained in custody. The material is available in several languages and also on tape. Furthermore, the personnel have been trained in improved handling of critical situations. In its work with a new and expanded system of personnel training, the Prisons and Probation Service attaches great importance to the personnel achieving an understanding of the situation of the inmates and of the social and psychological mechanisms which are relevant for working with the inmates.

113. On 13 February 1992, the Department of Prisons and Probation appointed a working group to look at guidelines for the practical use of means of force and security and to consider whether changes should be made to customs and standards and to the personnel training. This working group submitted its report in January 1994. On the basis of the proposals of the working group, ths Prisons and Probation Service has implemented a number of changes to the current rules on the use of force and prepared guidelines for the personnel.

114. As for the practical use of means of force and security, the Prisons and Probation Service by circulars of 8 January and 1 March 1996 has changed the current rules for the use of force on inmates. The change has abolished shoves and pushes as an authorized means of force and has replaced them by a hold on the upper arm. Furthermore, the rules on truncheons are changed so that a truncheon can normally only be issued (carried) with the approval of the leader on duty in individual cases if and when there is a specifically motivated special situation of risk. In all other cases, the truncheon is kept in store.

115. Concerning various holds, it has been decided on the one hand to have future holds determined, and on the other hand to prepare a teaching manual. The Training Centre of the Prisons and Probation Service is working on this.

116. The circular of 1 March 1996 now authorizes the use of shields against inmates. Only shields of the type approved by the Department may be used, corresponding to that used by the police. Shields can only be used in situations where it is necessary to pacify the inmate to avert imminent violence, conquer violent resistance or to prevent suicide or other self-mutilation. Shields may only be used when other more lenient means have already been attempted or will obviously be inadequate.

117. In April 1996, the Department prepared guidelines and an instruction on the use of handcuffs on inmates as a supplement to the current handcuffs circular, as the existing English-language instruction from the handcuff manufacturer is inadequate. Furthermore, an appointed sub-working group has just developed a new product, a "handcuffs transport belt", which is more gentle than the usual handcuffs for long transports of inmates, i.e. transports lasting more than one hour by car. The belt, which is a leather bodybelt with lined wrist straps, is being tested provisionally in two prisons for about one year before it is finally decided whether the belt is to be used in future by the Prisons and Probation Service.

118. In January 1996, the Department prepared guidelines for the prisons and local jails of the Prisons and Probation Service on the use of tear-gas and anti-tear-gas, because the tear-gas now used is of the CS gas type in spray cans. Tear-gas may only be used when the conditions in the circular on the use of force are satisfied, viz. to avert personal injury, prevent suicide or self-mutilation or to prevent escape or stop an escaped person if there is reason to believe that it could not be done in any other manner.

119. In addition, an appointed sub-working group at the Training Centre of the Prisons and Probation Service is at present working on preparing a proposal for the contents of courses and guidelines concerning the introduction of a formalized debriefing scheme at all service locations in the Prisons and Probation Service. The scheme is to serve as a personal and collegial conflict stand-by arrangement and is to function as a follow-up of extraordinary, acute situations. The psychiatric consultant of the Prisons and Probation Service has recommended the scheme.

120. Based on a proposal from the working group on customs and standards for the use of means of force and security, the Prisons and Probation Service has appointed a working group to prepare customs and standards concerning the treatment of conflicts. The mandate of the working group was finally determined on 12 December 1995, and so far the working group has held a first meeting in 1996.

121. A sub-working group appointed by the working group concerning the basic training/supplementary training for prison officers, etc. has just (February 1996) made a recommendation on adaptation of the basic training for probationary prison officers and shop foremen. The recommendation, which has been sent to the institutions of the Prisons and Probation Service for comments, mainly consists of the following proposals and recommendations:

(a) Retraining structure: the introductory period is extended by further theoretical training for uniformed personnel, and the tutor training during the first period of practice is extended (the period when the employees on probation are extras on a block so that older colleagues can advise and guide the new employees) and is systematized as to contents;

(b) Retraining contents: an independent subject of pedagogy is to be established in the basic training. The subjects written processing of cases, social studies and self-defence/conflict-solving are extended with more lessons, and tuition in the subject of work operation (employment of the

inmates) should be strengthened. Tuition in English is changed, the number of lessons in criminal law is reduced, and computer training is omitted and replaced by a requirement of proven knowledge of computers at user level as part of the employment qualifications.

122. In supplement to document CAT/C/17/Add.13, paragraphs 24-27, it can be stated that the compulsory basic training of the Prisons and Probation Service provides personnel training in psychology and psychiatry, so that after a completed course the participants understand elementary psychological and pedagogical correlations of special relevance to the work in the Prisons and Probation Service and show ability and willingness to use their understanding in their daily work.

123. Within the compulsory further training, new courses in conflict-solving have been introduced for all employees who completed their basic training more than five to seven years ago. The courses aim at refreshing the participants' skills in the use of gentle conflict-solving means, refreshing their knowledge of the use of means of force and security and their skill in performing holds and self-defence techniques as well as contributing towards strengthening the participants' feeling of personal security and safety in special situations of risk.

124. Within the non-compulsory training of prison personnel, the Prisons and Probation Service also offers courses in conversation techniques, psychiatry/psychology as well as conflict-solving.

Article 14

125. As for the Schou case mentioned in the minutes of the examination concerning the second periodic report (CAT/C/SR.229, para. 21), the Danish State, represented by the Commissioner of the Copenhagen Police, was sentenced to pay compensation of DKr 1,399,000 to Benjamin Schou by judgement of the Eastern High Court of 17 November 1995. The judgement is final.

126. Concerning the case of compensation mentioned in the same minutes in paragraph 11, this case is not yet concluded.

127. The claim for compensation which had arisen owing to a case of administrative deprivation of liberty pursuant to chapter 43 a of the Administration of Justice Act of a Gambian citizen was first made in February 1993. The counsel of the person in question requested a new medical examination to be conducted in order to procure evidence that the client had sustained permanent injuries and had lost his ability to work. It subsequently proved difficult to procure information from the Gambia with a view to assessing the possibility of having this medical examination performed in the Gambia by Gambian doctors. The problem was, among other things, lack of detailed information on the qualifications of the examining doctor. In an attempt to reach a settlement of the case a meeting was held on 9 June 1995 with the counsel, where agreement was reached to submit the case to the Danish National Board of Industrial Injuries (Arbejdsskadestyrelsen) to obtain an opinion on the person's loss of ability to work. The Ministry of Justice

further decided after the meeting to pay an amount of DKr 60,000 on account to the Gambian. The National Board of Industrial Injuries stated by letter of 19 December 1995 that it was not able to assess the degree of injury and loss of ability to work on the basis available as the medical information in the case was too old.

128. The parties have subsequently discussed how to perform the required medical examination of the Gambian either in Denmark or in the Gambia. It has been agreed to approach the Danish Medical Association with a view to appointing doctors to perform the required examination of the Gambian.

129. Reference is made in general to paragraphs 48-50 of Denmark's second periodic report (CAT/C/17/Add.13) and to paragraph 9 in the minutes of the examination concerning that report (CAT/C/SR.229).

Articles 15-16

130. There have been no changes in legislation or practice in relation to these provisions.

Annex 1

COMMENTS FROM THE REHABILITATION AND RESEARCH CENTRE FOR TORTURE VICTIMS

1. Referring to the annex to documents CAT/C/5/Add.4 and CAT/C/17/Add.13, the following primarily concerns developments since 1992.

2. The Rehabilitation and Research Centre for Torture Victims (RCT) and its International Rehabilitation Council for Torture Victims (IRCT) are independent, private organizations. However they received subsidies from the Danish Government, in 1995 DKr 8,844,000 to the RCT and DKr 17,138,000 to the IRCT. The RCT contributes to meeting the commitment of Denmark under the Convention against Torture, particularly with regard to articles 3, 10 and 14.

3. With regard to rehabilitation activities, the IRCT has made an estimate of current and future needs for international funding through 1998: "Need for international funding of rehabilitation activities for victims of torture worldwide" (E/CN.4/1996/33/Add.1, annex).

Article 3

4. In order not to "refouler" persons, it is necessary for persons who deal with asylum cases to know about and be aware of the behaviour of torture victims. This is particularly important in the pre-asylum phase. The RCT continues to provide teaching on the issue to a number of persons and organizations:

(a) The border police;

(b) The persons in the various police districts who are responsible for foreigners.

Teaching has also been provided to:

(c) Danish Red Cross Staff who are responsible for the running of centres for persons in the pre-asylum phase;

(d) Members of the Danish Refugee Board.

Article 10

5. As described in the annexes to the earlier reports, the Danish Government attaches great importance to education and information about the prevention of torture. The RCT/IRCT spends approximately 38 per cent of their budgets on education and information activities. Thus, 5,265 persons received training and information for a longer or shorter period of time in 1995. Participants included 2,810 Danish citizens and 2,455 foreigners. Education of special groups continues to be offered and supplementary training is given to the police and judges.

6. Training in medical aspects of torture is provided to undergraduate medical students, dental students, psychology students, student physiotherapists and all student nurses. Postgraduate education is given to

certain groups of lawyers, to paediatricians and psychiatrists, including prison and military doctors. The RCT has produced guidelines for prison doctors with regard to prison visits.

7. In some Asian countries Master Training Seminars within the Medical Associations have been carried out under the auspices of the RCT/IRCT.

8. The international task force of the Danish police has been aided in its work, particularly with regard to Gaza.

9. The RCT has produced teaching materials in Danish on medical aspects of torture for various groups of students and professionals. Most of this material is also available in English while some of it has been translated into Albanian, Arabic, Croat, French, Italian, Spanish, Swedish, Turkish and Ukrainian.

Article 14

10. It may be noted that there are different aspects of Government-sanctioned torture, among others violence performed by the police and prison officials. In this regard please see CAT/C/17/Add.13, paragraphs 33-50. No person has been charged with practising torture in Denmark and at the RCT we have not seen clients who have been tortured in Denmark.

11. The RCT treats persons who have been granted asylum in Denmark and who have been exposed to torture. The RCT seeks to give "as full rehabilitation as possible". The rehabilitation consists of psychological and physiotherapeutical treatment of torture survivors and the families as well as social counselling, all with due regard to cultural differences. At present the majority of persons undergoing treatment are from the Middle East. Treatment was completed for 123 persons in 1995.

12. Through research the RCT constantly seeks to improve the treatment of survivors. The knowledge gained has been spread globally through the IRCT network covering 99 treatment centres in 49 countries, and initiatives in 23 other countries.

13. The RCT/IRCT provides advice on projects involving the treatment of torture victims to the European Union and the United Nations Voluntary Fund for Victims of Torture.

14. The IRCT has organized numerous international as well as regional meetings on medical aspects of torture. The VII Symposium on Caring for Survivors of Torture was held in November 1995 in Cape Town, South Africa. The Council of Europe Committee for the Prevention of Torture (CPT) held a seminar on torture at the RCT premises in Copenhagen in January 1996.

14 May 1996

Annex 2

EXAMPLES FROM THE PRACTICE OF THE REFUGEE BOARD CONCERNING THE FIELD OF APPLICATION OF SECTION 7 OF THE ALIENS ACT IN RELATION TO TORTURE VICTIMS AND CONCERNING THE ISSUE OF EXPULSION WITH RESPECT TO THE PROHIBITION AGAINST REFOULEMENT*

1. The following examples from the practice of the Refugee Board can illustrate the field of application of section 7 of the Aliens Act in relation to torture victims. It should be noted that the exemplification is not exhaustive.

2. On 4 May 1995, the Refugee Board granted a residence permit pursuant to section 7 (1) of the Aliens Act (Convention status) to an Iranian citizen. During an arrest and subsequent imprisonment for two years in the Islamic Republic of Iran, the applicant had been subjected to various forms of torture, one example being that his legs were tied to a cross and his hands tied to his legs, whereupon he was beaten. The file contained an addendum from the Danish medical group of Amnesty International, from which it appeared that there was a correlation between the applicant's statements about torture and other degrading treatment during his imprisonment and the mental consequences thereof. The Refugee Board found that the applicant had been imprisoned owing to political activities and that he had been exposed to torture during his imprisonment. Accordingly, and taking into consideration that owing to the torture the applicant had a strong and subjective fear of returning, the Refugee Board found that it could not be required of the applicant that he go back to Iran.

3. On 11 May 1995, the Refugee Board granted a residence permit pursuant to section 7 (1) of the Aliens Act (Convention status) to an Indian citizen. The applicant had stated in his case that during three periods of detention he had been subjected to torture, being beaten with sticks, rolled on the ground and having his head put under water. The case also contained a medical declaration from which it appeared that the applicant's motor functioning was impaired as a consequence of serious physical torture. Against the background of the medical declaration, the Refugee Board found that the applicant had been exposed to torture in connection with detention that was due to political work. Accordingly, the Refugee Board found that it could not exclude the possibility that if the applicant returned, he would risk persecution of an asylum-motivating nature owing to his political work.

4. On 25 August 1995, the Refugee Board granted a residence permit pursuant to section 7 (1) of the Aliens Act (Convention status) to an Iranian citizen. The applicant had stated in the case that during two prison terms in his country of origin he had several times been subjected to torture in the form of electric shocks, blows, etc. The Refugee Board found that the applicant had carried out illegal political work, and that he had been subjected to imprisonment and torture. Regardless of the fact that in later years his political work had been of limited scope and had been of lesser importance, the Board found that it could not exclude the possibility that if the

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* See section 31 of the Aliens Act.

applicant returned to Iran, he would suffer such a risk of being sought by the authorities and be exposed to infringements of an asylum-motivating nature that it should not be required of the applicant to return to Iran. In its decision, the Refugee Board furthermore attached some weight to the applicant's mental injuries and subjective fear.

5. On 14 December 1995, the Refugee Board granted a residence permit pursuant to section 7 (2) of the Aliens Act (de facto status) to an Ethiopian citizen. The applicant had stated in the case that during a stay in prison he had been interrogated several times and subjected to torture, being tied to a pole and beaten. The case included a report from the Amnesty International medical group stating that the physical findings of an examination were fully compatible with the assaults to which the applicant had stated that he had been exposed. The Refugee Board found that the applicant had been exposed to torture. The Refugee Board found that the persecution which the applicant had suffered had not been motivated by circumstances comprised by the Refugee Convention, for which reason the Refugee Board granted a residence permit to the applicant pursuant to section 7 (2) of the Aliens Act.

6. The following example relates to the practice of the Refugee Board concerning the issue of expulsion with respect to the prohibition against refoulement (see sect. 31 of the Aliens Act).

7. On 12 March 1995, the Refugee Board decided that an Iranian citizen who had been expelled by judgement could not be sent back to the Islamic Republic of Iran. The person in question had been granted asylum in 1984 (de facto status). His residence permit lapsed by a judgement of expulsion in 1994 in connection with a criminal case concerning, among other things, violation of the controlled drugs legislation. The Refugee Board found that the applicant had been politically active and in that connection had been subjected to imprisonment and torture in his country of origin. The Board found that on return to his country of origin, the person in question would still risk assaults comprised by section 7 (2) of the Aliens Act. The Board noted that the person involved was a torture victim. Regardless of the seriousness of the crime committed in Denmark, the Refugee Board therefore found it to be highly questionable to consider the person to be included by the second clause of subsection (2) of section 31 of the Aliens Act, for which reason he could not be returned to Iran.